

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
JULIO RAMOS,	:	
	:	
Petitioner	:	06 Civ. 5815 (TPG)
	:	
- against -	:	<b><u>OPINION</u></b>
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	
-----X		

On August 1, 2006 Julio Ramos filed this motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The action was initially assigned to Judge Brieant. Following his demise, it was transferred first to Judge Seibel and then to Judge Robinson. Judge Robinson referred it to Magistrate Smith for a hearing and a Report and Recommendation pursuant to 28 U.S.C. § 636(a)(1)(B).

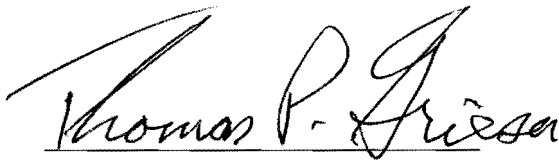
On February 6, 2009, Magistrate Smith held an evidentiary hearing concerning petitioner's claim that his trial counsel was ineffective for failing to file a notice of appeal after petitioner had allegedly asked her to do so. The case was then transferred to this court on November 12, 2010. On November 16, 2011, Magistrate Smith issued her Report and Recommendation, counseling the court to deny petitioner's motion. Neither Ramos nor the Government has filed any objection to the Report and Recommendation.

The court has reviewed the Report and Recommendation and adopts its proposed findings. For the reasons set forth by Magistrate Smith, the motion is

dismissed. As Ramos has not made a substantial showing of the denial of a constitutional right, a Certificate of Appealability will not issue. See 28 U.S.C. § 2253(c). The court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal taken from this decision would not be taken in good faith.

SO ORDERED.

Dated: New York, New York  
January 27, 2012



Thomas P. Griesa  
U.S.D.J.

